IFW

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Shinji MIWA et al. Group Art Unit: 2624

Application No.: 10/563,563 Examiner: A. ALAVI

Filed: January 6, 2006 Docket No.: 125868

For: IMAGE PROCESSING METHOD, IMAGE PROCESSING APPARATUS AND PROGRAM

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the March 5, 2009 Restriction Requirement, Applicants provisionally elect Group I, claims 1-19, with traverse.

First, national stage applications filed under 35 U.S.C. §371 are subject to unity of invention practice as set forth in PCT Rule 13, and are not subject to U.S. restriction practice. *See* MPEP §1893.03(d). PCT Rule 13.1 provides that an "international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept." PCT Rule 13.2 states:

> Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

A lack of unity of invention may be apparent "*a priori*," that is, before considering the claims in relation to any prior art, or may only become apparent "*a posteriori*," that is, after taking the prior art into consideration. *See* MPEP §1850(II), quoting *International Search and Preliminary Examination Guidelines* ("ISPE") 10.03. Lack of *a priori* unity of invention only exists if there is no subject matter common to all claims. *Id.* If *a priori* unity of invention exists between the claims, or, in other words, if there is subject matter common to all the claims, a lack of unity of invention may only be established *a posteriori* by showing that the common subject matter does not define a contribution over the prior art. *Id.*

Page 3 of the Restriction Requirement asserts that claims corresponding to Group I and Group II lack the same or corresponding special technical features because Group I is related to color correction while Group II classifies image based on color.

However, claims from each respective group do not differ significantly from each other to require a restriction requirement because all claims share a special technical feature. For example, independent claim 1, corresponding to Group I, recites "a correction step of correcting said first plurality of colors or said second plurality of colors in accordance with said correspondence" and claim 20, corresponding to Group II, similarly recites "a correction step of correcting the image color information indicating the color of said second image in accordance with the relationship between the domain representative color information of said one first domain and the domain representative color information of said one second domain which are associated." Claims 1 and 20 each share a common technical feature, color correction, to correct color based on a relationship or correspondence.

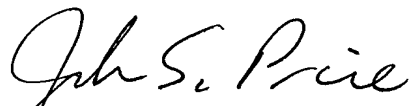
Accordingly, Applicants assert that independent claims 1-19 and 20-34 share a common technical feature, as discussed above, and therefore *a priori* unity of invention exists between all the claims. Thus, for the present application, a lack of unity of invention may only be determined *a posteriori*, or in other words, after a search of the prior art has been

conducted and it is established that all the elements of the independent claims are known. *See* ISPE 10.07 and 10.08.

The Office Action does not establish that each and every element of the subject matter that is common to the independent claims is known in the prior art. Therefore, Applicants respectfully submit that lack of unity of invention has not been established, and thus a Restriction Requirement based on a lack of unity of invention is improper.

Thus, withdrawal of the Restriction Requirement is respectfully requested.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

John S. Price
Registration No. 56,581

JAO:JSP/kjl

Date: April 2, 2009

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE AUTHORIZATION
Please grant any extension necessary for entry;
Charge any fee due to our Deposit Account No. 15-0461